

Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLECOOK PRODUCTIONS, LLC,
Plaintiff,

v.

THOMAS SWANICKE, an individual;
SHANNON REYNOLDS, an individual;
SAMANTHA WIERZYKAI, an individual;
FRANKLIN COBB, an individual;
YOOKYNG PAK, an individual; and
TYREE SMITH, an individual,

Defendants.

Civil Action No. 16-cv-1884TSZ

JOINT STATUS REPORT

This Status Report and Discovery Plan is filed by Plaintiff and Defendants through their respective counsel or *pro se* in response to the Court's December 19, 2016 Order (Dkt. 8), as subsequently extended. Despite repeated efforts, while Plaintiff conducted Rule 26(f) conferences with each remaining Defendant, and their specific input is included, where provided, Plaintiff was unable to secure signatures from Defendants Swanicke and Reynolds.

1. Statement of the Nature and Complexity of the Case

Plaintiff Cook Productions, LLC is a developer and producer of the motion picture *Mr. Church* for theatrical exhibition, home entertainment and other forms of distribution. The motion picture is protected by the Copyright Act in motion picture Registration No. PA 2-002-851, effective August 29, 2016. Plaintiff is informed and believes that each Defendant, without the permission or consent of Plaintiff, has separately used an online media distribution system to



wrongfully misappropriate, reproduce and distribute to the public, including by making available for distribution to others. On information and belief, each Defendant separately participated in a swarm and/or reproduced and/or distributed the same seed file of the motion picture in digital form either directly with each other. Plaintiff has identified each Defendant by the IP address assigned to that Defendant by his or her ISP and the date and at the time at which the infringing activity of each Defendant was observed. Each Defendant has separately directly, indirectly and/or contributorily violated Plaintiff's exclusive rights of at least reproduction, preparation derivative works and distribution. Each Defendant's actions constitute infringement of Plaintiff's exclusive rights protected under 17 U.S.C. § 101 et seq.

Defendants have denied Plaintiff's claims.

Defendant Shannon Reynolds has no way to verify rather this software does what the Plaintiff says it does. Defendant Reynolds is asking for independent proof and sharing of the data so that Defendant can verify that the data is correct and so that Defendant can discover who may have violated the Plaintiff's rights.

2. Deadline for Joining Additional Parties

The parties propose that additional parties be joined by November 13, 2017.

3. Referral to Magistrate Judge

No

4. Proposed Discovery Plan

The parties suggest the following discovery plan:

(A) FRCP 26(a) Initial Disclosures

Initial disclosures are due per the Court's Order on August 28, 2017.

Defendant Reynolds states that he is not aware of a due date.

1 **(B) Subjects, Timing and Potential Phasing of Discovery**

2 Without waiving any objections to the relevance or admissibility of information and
3 documents implicated by the description of topics, the parties believe that the subject matter of
4 their discovery may include the following:

- 5 • Copyright application and registration materials and any assignments or transfers
6 of copyright ownership
- 7 • Correspondence and other documents relating to communications between the
8 parties
- 9 • Computer hardware and router used with IP address, or information pertaining to
10 its spoliation
- 11 • Identification of individuals given access to the IP address during the relevant
12 period(s) of time
- 13 • Claims asserted and defenses raised by the parties
- 14 • Damages

15 The parties do not believe that discovery should be conducted in phases or be limited to or
16 focused upon particular issues.

17 Defendant Reynolds reserves to right to hold all information unless provided with a court
18 order to release information. Defendant will not all anyone access to his computer without a court
19 order and only to a bonded and insured independent investigator. Defendant does not allow access
20 to his computer except for licensed and current security updated software and patches.

21 **(C) Electronically stored information**

22 The parties believe that discovery will implicate the exchange of electronically stored
23 information.

24 Defendant Reynolds has no idea what this means.

25

26



(D) Privilege issues

The parties believe that privilege logs should be exchanged for any claimed privileged material that existed prior to commencement of the earliest ITC dispute. The parties do not believe that privilege logs should be exchanged for any claimed privilege materials created after that date.

Defendant Reynolds has no idea what this means.

(E) Proposed limitations on discovery

The parties do not believe that any changes should be made to the limitations on discovery imposed under the Federal and Local Civil Rules, or that any other limitations should be imposed.

(F) Discovery related orders

The parties believe that a Protective Order under FRCP 26(c) or comparable agreement may be required to limit the disclosure of certain information, such as, but not limited to, confidential, commercially sensitive information and documents such as financial and customer records.

The parties are not presently aware of any other orders that should be entered by the Court under FRCP 26(c) or under Local Rule CR 16(b) and (c).

Defendant Reynolds will not allow access to his computer where family financial information and passwords are stored.

5. Local Rule 26(f)(1) issues

The parties offer the following statements regarding Rule 26(f)(1):

(A) Prompt case resolution

All parties except Defendant Swanicke propose to undertake ADR after discovery and early motion practice.

Defendant Swanicke states as follows: "I firmly request a jury trial & no form of alternative dispute resolution is acceptable."

Defendant Reynolds is willing to discuss ADR, but not willing to give up a court hearing.

1 **(B) Alternative dispute resolution**

2 The parties believe that mediation is the preferred ADR method.

3 Defendant Reynolds is not sure what is best.

4 **(C) Related cases**

5 The parties are not aware of any related cases, apart from what has been previously noted
6 in the pleadings of record.

7 **(D) Discovery management**

8 The parties will work together to minimize discovery disputes. Parties have agreed to
9 service via email, without any other alteration of the time limits imposed by FRCP 6. The
10 agreement on email service provides an alternative acceptable form of service in addition to the
11 other traditional forms of service (e.g., mail, hand delivery) that are provided for under the Rules.
12 Should any email with attachments exceed 10 MB in size, the Parties have agreed to either
13 (a) divide the attachments into separate emails of no more than 10 MB each, or (b) serve using one
14 of the other traditional forms of service.

15 Defendant Swanicke has declined to agree to email service.

16 Defendant Reynolds states email communication requires a receipt response to validate
17 that the information was received.

18 **(E) Anticipated discovery sought**

19 See 4(B) above.

20 **(F) Phasing motions**

21 The parties do not anticipate any phasing motions.

22 **(G) Preservation of discoverable information**

23 The parties have taken steps to preserve relevant information and documents.

24 Defendant Reynolds does not care one way or the other.



(H) Privilege issues

See 4(D) above. Also, the parties agree to follow FRE 502 regarding inadvertent production.

(I) Model Protocol for Discovery of ESI

The parties agree to adopt the Model Protocol.

(J) Alternative to Model Protocol

The parties offer no alternative to the Model Protocol because the parties accept the Model Protocol.

Defendant Reynolds does not accept anything at this point.

6. Date for Completion of Discovery

The parties believe that fact discovery can be completed by June 14, 2018.

Defendant Reynolds is not sure what he is supposed to discover.

7. Bifurcation

The parties see no need to bifurcate any issues.

8. Dispense with any Local Civil Rules?

The parties see no need to alter Local Civil Rules.

9. Suggestions for Shortening or Simplifying the Case

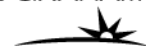
The parties agree to proceed in good faith and to meet and confer as necessary.

10. Date Ready for Trial

The parties believe that this matter should be ready for trial by October 15, 2018.

11. Trial by Jury

A jury trial has been requested.



1 **12. Number of Trial Days Required**

2 The parties anticipate that trial of this matter will require 3-5 court days.

3 **13. Names, Addresses and Telephone Numbers of Trial Counsel**

4 Plaintiff: David A. Lowe, WSBA No. 24,453
5 Lowe@LoweGrahamJones.com
6 LOWE GRAHAM JONES^{PLLC}
7 701 Fifth Avenue, Suite 4800
8 Seattle, Washington 98104
T: 206.381.3300
F: 206.381.3301

9 Defendants: *Pro se*

10 **14. Complications for trial counsel**

11 Counsel is presently unaware of any complications, but trial dates in other cases involving
12 Plaintiff's counsel have been requested for March or April 2018 and trial set for November 5, 2018
13 in Case No. 17-cv-894TSZ.

14 **15. Service**

15 Parties have been served.

16 **16. Scheduling Conference**

17 The parties do not presently believe that there is a need for a scheduling conference before
18 the Court enters a scheduling order in this case.

19 **17. Disclosure Statements**

20 Plaintiff filed its Fed. R. Civ. P. 7.1 and Local Civil Rule 7.1 statement on December 8,
21 2016. (Dkt. 4)
22
23
24
25
26

1 DATED August 28, 2017.

2 s/ David A. Lowe, WSBA No. 24,453

3 Lowe@LoweGrahamJones.com

4 LOWE GRAHAM JONES^{PLLC}

5 701 Fifth Avenue, Suite 4800

6 Seattle, WA 98104

7 T: 206.381.3300

8 F: 206.381.3301

9 *Attorneys for Plaintiff*

Thomas Swanicke

8203 86th Ave NE

Marysville, WA 98270

T: 206.651.5002

(no email or facsimile number provided)

Pro se

Shannon Reynolds

7920 48th Ave SE

Olympia, WA 98503

T: 360.556.3064

strreynolds@hotmail.com

Pro se

Yookyng Pak

1830 S. 336th St. Apt. #G102

Federal Way, WA 98003

T: 206.405.0941

ypakster22@yahoo.com

Pro se



1 DATED August 28, 2017.

2 s/ David A. Lowe, WSBA No. 24,453

3 Lowe@LoweGrahamJones.com

4 LOWE GRAHAM JONES^{PLLC}

5 701 Fifth Avenue, Suite 4800

6 Seattle, WA 98104

7 T: 206.381.3300

8 F: 206.381.3301

9 *Attorneys for Plaintiff*

Thomas Swanicke

8203 86th Ave NE

Marysville, WA 98270

T: 206.651.5002

(no email or facsimile number provided)

Pro se

Shannon Reynolds

7920 48th Ave SE

Olympia, WA 98503

T: 360.556.3064

strreynolds@hotmail.com

Pro se


Yookyng Pak

1830 S. 336th St. Apt. #G102

Federal Way, WA 98003

T: 206.405.0941

ypakster22@yahoo.com

Pro se